

Message Text

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INFO OCT-01 ARA-16 ISO-00 PA-04 PRS-01 USIA-15 AID-20

CIAE-00 FRB-02 INR-10 NSAE-00 RSC-01 TRSE-00 XMB-07

OPIC-12 SP-03 CIEP-02 LAB-06 SIL-01 OMB-01 AGR-20

DRC-01 /134 W

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R 261445Z JUN 74

FM AMEMBASSY BUENOS AIRES

TO SECSTATE WASHDC 7030

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E.O. 11652: N/A

TAGS: ECON, ETRD, AR

SUBJ: NEW LAW OF SUPPLY STRENGTHENS GOA AUTHORITY TO CONTROL PRIVATE ECONOMIC SECTOR.

REF: CERP ECONOMIC ALERT LIST, LATIN AMERICA

BEGIN UNCLASSIFIED:

1. SUMMARY: GOA PROMULGATED NEW LAW OF SUPPLY AND REPRESSION OF HOARDING AND SPECULATION JUNE 24. MEASURE REAFFIRMS AND SUBSTANTIALLY AMPLIFIES AUTHORITY OF GOA TO CONTROL PRICES AND INTERVENE GENERALLY IN DOMESTIC ECONOMY AND FOREIGN TRADE TO ENSURE ADEQUATE PRODUCTION AND SUPPLY OF GOODS AND SERVICES. GOA IS GIVEN EXPLICIT AUTHORITY TO CONTROL DIRECTLY VIRTUALLY EVERY STAGE OF COMMERCIAL AND INDUSTRIAL ACTIVITY. LAW DOES NOT ADDRESS BASIC CAUSES OF INFLATION AND SUPPLY PROBLEMS, AND FULL IMPLEMENTATION WOULD SERVE PRIMARILY TO INTENSIFY PRESENT DISTORTIONS IN ARGENTINE ECONOMY. END SUMMARY.

2. ARGENTINE SENATE GAVE VIRTUALLY UNANIMOUS APPROVAL EARLY JUNE 20 TO LAW OF SUPPLY AND REPRESSION OF HOARDING AND SPECULATION, AND GOA PROMULGATED LAW JUNE 24. GOA AUTHORIZED TO

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LATION, AND GOA PROMULGATED LAW JUNE 24. GOA AUTHORIZED TO

TAKE WIDE RANGE OF ACTIONS TO ENSURE ADEQUATE PRODUCTION AND SUPPLY OF ESSENTIAL GOODS AND SERVICES. MANY OF THESE PROVISIONS WERE INCORPORATED IN EARLIER LEGISLATION, PARTICULARLY LAW 19.508 OF 1972 AND HAVE BEEN USED BY PERONIST GOVERNMENT OVER PAST YEAR IN EFFORTS TO CONTROL PRICES AND LOCAL SUPPLY SITUATION. HOWEVER, THE NEW STATUTE SERVES TO EXPAND AND AMPLIFY THE POWERS OF THE EXECUTIVE SUBSTANTIALLY IN THIS SPHERE, GRANTING IT CLEAR AUTHORITY TO CONTROL DIRECTLY VIRTUALLY ANY ASPECT OF ECONOMIC ACTIVITY WITHIN ARGENTINA.

3. FLAVOR IS GIVEN BY FIRST ARTICLE, WHICH ESTABLISHES THAT THE LAW APPLIES TO ALL ECONOMIC AND COMMERCIAL TRANSACTIONS RELATED DIRECTLY OR INDIRECTLY TO THE PRODUCTION AND DISTRIBUTION OF GOODS AND SERVICES IN THE FIELDS OF SANITATION, FOOD, CLOTHING, HYGIENE, HOUSING, SPORTS, CULTURE, TRANSPORTATION, HEATING, REFRIGERATION, AND RECREATION, AS WELL AS "ANY OTHER GOOD OR SERVICE WHICH SATISFIES--DIRECTLY OR INDIRECTLY--COMMON OR EVERYDAY NEEDS OF THE POPULATION". THIS ARTICLE FURTHER SPECIFIES THAT ITS AUTHORITY APPLIES TO ANY AND ALL STAGES IN THE ECONOMIC PROCESS. EARLIER LEGISLATION HAD APPLIED ONLY TO THE CONTROL OF SALES OF FINISHED PRODUCTS AT THE WHOLESALE AND RETAIL LEVEL.

4. THE MOST IMPORTANT MEASURES WHICH THE EXECUTIVE IS AUTHORIZED TO UNDERTAKE TO ENSURE DOMESTIC SUPPLY, ARE:

- A) SETTING MAXIMUM PRICES AND/OR PROFIT MARGINS FOR ANY STAGE OF ECONOMIC ACTIVITY, AS WELL AS FREEZING OF PRICES;
- B) SETTING MINIMUM OR SUPPORT PRICES;
- C) DICTATING RULES GOVERNING PRODUCTION, DISTRIBUTION, SALE, AND OTHER INTERMEDIATION RESPECTING GOODS AND SERVICES;
- D) OBLIGING COMMERCIAL AND INDUSTRIAL ENTERPRISES TO CONTINUE THEIR ACTIVITIES AND TO CONTINUE TO PRODUCE SPECIFIED GOODS AND SERVICES AT MONTHLY RATES WHICH THE GOA SHALL FIX;
- E) LOWERING OR SUSPENSION OF IMPORT DUTIES, AND EXTENSION OF SUBSIDIES AND OTHER TAX BENEFITS TO SUPPORT IMPORTS;
- F) PROHIBITING OR RESTRICTING EXPORTS;
- G) TEMPORARILY TAKING OVER MANAGEMENT OF COMMERCIAL AND INDUSTRIAL FACILITIES TO ENSURE CONTINUED OPERATION, FOR PERIOD OF UP TO 180 DAYS (RENEWABLE FOR CONSECUTIVE PERIODS UP TO TWO YEARS);

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H) EXPROPRIATION OF GOODS AND INDUSTRIAL SUPPLIES DURING "STATE OF ECONOMIC EMERGENCY", FOR SUBSEQUENT SALE TO CONSUMERS OR END-USERS (INDEMNIZATION SET AT COST PLUS TEN PER CENT, WITHOUT ALLOWANCE FOR REVALUATION DUE TO INFLATION).

5. LAW ALSO ESTABLISHES A SERIES OF ECONOMIC ACTIONS SUBJECT TO PENALTIES RANGING FROM FINES TO CLOSURE OF FIRMS. MOST IMPORTANT VIOLATIONS ARE:

A) "EXCESSIVE" INCREASE IN PRICES OR OBTAINING "ABUSIVE PROFITS";
B) REVALUATION OF STOCKS WITHOUT EXPRESS AUTHORIZATION OF
EXECUTIVE;
C) HOLDING OF STOCKS IN EXCESS OF THAT NEEDED TO SATISFY
"HABITUAL PRODUCTION PLANS AND/OR DEMAND";
D) CREATING UNNECESSARY INTERMEDIARY STEPS IN DISTRIBUTION
AND COMMERCIAL PROCESS;
E) DESTRUCTION OF MERCANDISE OR ANY OTHER ACT WHICH WOULD
TEND TO RESTRICT AVAILABILITY OF GOODS AND SERVICES;
F) REFUSAL TO SELL OR "UNJUSTIFIED" RESTRICTION OF SALES OR
REFUSAL TO EXPAND PRODUCTION WHEN GOA DEEMS ADDITIONAL PRO-
DUCTIVE CAPACITY EXISTS AND DEMAND IS RISING;
G) FAILURE TO STOCK GOODS WITH OFFICIALLY FIXED PRICES, OR
FAILURE TO SELL SIMILAR GOODS AT SUCH PRICES;

6. INDIVIDUALS OR FIRMS FOUND BY THE EXECUTIVE TO HAVE COM-
MITTED ANY OF THE ABOVE ACTS WILL BE SUBJECT TO THE FOLLOWING
PENALTIES, DEPENDING ON THE CASE:

A) FINES OF FROM 200 TO ONE MILLION PESOS, OR THREE TIMES THE
ILLICIT PROFIT OBTAINED BY THE VIOLATION;
B) ARREST FOR PERIOD UP TO 90 DAYS;
C) CLOSURE OF ESTABLISHMENT FOR UP TO 90 DAYS;
D) DENIAL OF BANK CREDITS TO VIOLATOR FOR UP TO TWO YEARS;
E) SEIZURE OF MERCANDISE;
F) DENIAL OF INDIVIDUAL RIGHT TO ENGAGE IN COMMERCIAL ACTI-
VITIES OR HOLD PUBLIC OFFICE FOR ONE TO FIVE YEARS;
G) SUSPENSION FOR UP TO FIVE YEARS FROM REGISTRY OF STATE
SUPPLIERS, TO INCLUDE CANCELLATION OF CONTRACTS ALREADY IN
EFFECT;
H) SUSPENSION OF RIGHT TO USE TRADEMARKS AND PATENTS FOR UP
TO THREE YEARS.

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7. AS A FURTHER PENALTY, STATUTE ALSO PROVIDES THAT, WHEN VIOLATION COMMITTED ON BEHALF OF "A JUDICIAL PERSON, ASSOCIATION, OR SOCIETY", THE FIRM MAY ALSO BE PENALIZED BY LOSS OF ITS LEGAL CORPORATE STATUS AND THE CANCELLATION OF THE CORRESPONDING LEGAL PREROGATIVES. CORPORATE OFFICIALS MAY ALSO BE HELD RESPONSIBLE AS INDIVIDUALS FOR VIOLATIONS, EVEN IF THEY DID NOT PARTICIPATE DIRECTLY, IF THE EXECUTIVE CONCLUDES THEY SHOULD HAVE KNOWN WHAT WAS BEING DONE AND SHOULD HAVE OPPOSED IT.

8. FINDINGS AS TO VIOLATIONS AND THE LEVYING OF PENALTIES ARE MADE THE RESPONSIBILITY OF THE "AUTHORITY OF APPLICATION", PRESUMABLY THE MINISTRY OF THE ECONOMY. SIGNIFICANTLY, THE LAW ALSO APPEARS TO PROVIDE THAT APPEALS FROM SUCH FINDINGS MUST BE SUBMITTED TO THE SAME AUTHORITY, RATHER THAN TO THE JUDICIARY. CLARIFICATION OF THIS POINT MUST AWAIT ISSUANCE OF THE REGULATORY DECREES.

9. OFFICIAL TEXT AND TRANSLATION WILL FOLLOW WHEN AVAILABLE.

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10. COMMENT: THIS NEW STATUTE EMBODIES, IN THE MOST EXTREME LIMITED OFFICIAL USE

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FORM SEEN TO DATE, THE PERONIST GOVERNMENT'S PREDILECTION TO HANDLE ECONOMIC PROBLEMS THROUGH THE PROGRESSIVE ELABORATION OF STATE CONTROLS OVER PRIVATE ECONOMIC ACTIVITY. FAR FROM HAVING ANY HELPFUL IMPACT ON ARGENTINA'S INCREASING INFLATIONARY PRESSURES AND DISTORTIONS OF NORMAL SUPPLY PATTERNS, THE MEASURE IS LIKELY TO AGGRAVATE THE PROBLEMS. IT DOES, HOWEVER, CREATE THE POLITICALLY USEFUL IMPRESSION THAT THE GOA IS PREPARED TO TAKE FORCEFUL ACTION AGAINST "ECONOMIC SABOTEURS OF THE SOCIAL PACTS". RECENT PUBLIC PRONOUNCEMENTS BY MINISTER OF ECONOMY GELBARD AND OTHER PUBLIC FIGURES HAVE, WITH INCREASED FREQUENCY AND SHRILLNESS, CHARGED THAT UNNAMED FOREIGN INTERESTS AND THEIR ARGENTINE SERVANTS ARE SABOTAGING THE SOCIAL PACT. THE STAGE IS APPARENTLY BEING SET TO MAKE THE LARGE PRIVATE COMPANIES, BOTH FOREIGN AND ARGENTINE-OWNED, THE SCAPEGOATS FOR THE SHORTCOMINGS OF THE SOCIAL PACT.

11. NONE OF THIS ADDRESSES BASIC FACTORS IN THE ARGENTINE ECONOMIC PROBLEM, AMONG WHICH ARE RISING PRICES AND RESTRICTED

AVAILABILITIES OF MATERIALS IN EXTERNAL MARKETS, RISING DOMESTIC DEMAND IN ANTICIPATION OF FURTHER INFLATION, RISING DOMESTIC LABOR AND MATERIAL COSTS, AND GREATLY DECREASED PROFITS, RANGING DOWN TO HEAVY LOSSES, THROUGHOUT THE LOCAL PRIVATE SECTOR. VASTLY EXPANDING THE SCOPE OF ECONOMIC CONTROL BY AN INEFFICIENT AND UNWIELDY BUREAUCRACY CAN ONLY MAKE THINGS WORSE. ALSO WORRISOME IS THE FACT THAT THE VARIOUS POWERS AND PENALTIES NOW AVAILABLE TO THE MINISTRY OF THE ECONOMY, APPARENTLY NOT SUBJECT TO JUDICIAL REVIEW, MAKE IT POSSIBLE TO PUT OUT OF BUSINESS ANY CONCERN WHICH WILL NOT OR CANNOT SATISFY THE DEMANDS OF THE BUREAUCRACY. THE POSSIBILITIES FOR GRAFT ARE LIKELY TO BE EXPLOITED TO THE FULLEST. INDEED, THE POTENTIAL FOR FURTHER ECONOMIC DISRUPTION WHICH WOULD FOLLOW ANY VERY VIGOROUS OR COMPREHENSIVE EFFORT TO IMPLEMENT THIS MEASURE WOULD SUPPORT THE VIEW HELD BY SOME THAT THE GOA WILL USE IT PRIMARILY AS A THREAT TO FORCE THE PRIVATE BUSINESS SECTOR INTO LINE IN ITS EFFORTS TO MAINTAIN ITS INCOMES POLICY, THAT IS, TRANSFERRING INCOME FROM PRIVATE INDUSTRY, COMMERCE AND AGRICULTURE TO WAGE EARNERS AND THE PUBLIC SECTOR. IMPLEMENTATION OF THE LAW CAN ONLY FURTHER DISCOURAGE PRIVATE ENTERPRISE HERE. END LIMITED OFFICIAL USE.

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